

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSBETTE J. RIVARD, as Administratrix of
the Estate of JOHN A. HORTON

Plaintiff,

vs.

DARTMOUTH HOUSE OF
CORRECTION, BRISTOL COUNTY,
JOHN DOE, RICHARD ROE Bristol
County Corrections Employees the identity
and number of whom is presently unknown
to the Plaintiff

Defendants

Civil Action No.: 04CV12058WGY

**PLAINTIFF'S MOTION FOR LEAVE OF
COURT TO FILE AMENDED COMPLAINT****MOTION TO AMEND**

Now comes the Plaintiff and moves that she be allowed to amend her complaint, to add the following Defendants:

- THOMAS M. HODGSON, individually and as he is the Bristol County Sheriff,
- GLEN H. STURGEON, individually and as he is Deputy Superintendent of the Bristol County House of Correction,
- THE BRISTOL COUNTY SHERIFF'S OFFICE,
- PRISON HEALTH SERVICES, INC.,
- PETER BERTHIAUME,
- SUSAN ANDREWS

As reasons, therefore Plaintiff states that F.R.C.P., Rule 15 provides that leave to amend should be freely given when "justice so requires." Under these circumstances, not only does justice so require, but the amendment Plaintiff seeks will also allow for greater judicial economy and efficiency by allowing the Plaintiff to bring her claim, which not only arises out of the same operative facts as this case but is derivative of these facts, in this case, rather than requiring her to bring a separate action.

**Broulx Law
Associates, P.C.**
Attorneys at Law
170 High Street, Suite 301
Taunton, MA 02780-3536
(508) 823-6441

This case involves damages including the death of the Plaintiff's son, John A. Horton, while he was in the custody of the Bristol County sheriff's department. Plaintiff's claims include failure to provide medical care and the negligent provision of medical care.

The Plaintiff learned that Defendant Prison Health Services, Inc., had the contract to provide medical services for the time that the Plaintiff's son was in the custody and care of the Defendants and was the party responsible for a significant portion of the Plaintiff's medical care for part of the time in question, and thus may be liable or may be jointly liable for the denial of medical attention or the negligent provision of medical care to the Plaintiff's son.

As it is early in discovery, no party is prejudiced by this amendment to add an additional parties, including the new Defendants, which has or should have notice and knowledge of this aim through its past and ongoing relationship with the present Defendants and/or their counsel. On the other hand, Plaintiff may be prejudiced if they are obliged to file and litigate a second lawsuit asserting the same claims as this one, and may even be prevented from doing so, pending on factual questions of when the specific wrong that caused the Plaintiff's injuries occurred.

A second lawsuit would be an inefficient and uneconomical waste of judicial resources. Such duplicative lawsuits also are disfavored because they create the undesirable admissibility of conflicting findings or outcomes upon the same operative facts.

Dated this the 21st day of July, 2005.

PLAINTIFF,
By her Attorney,



Robert M. Proulx, Esquire

Proulx Law Associates, P.C.

Attorneys at Law

170 High Street, Suite 301

Taunton, Massachusetts 02780-3536

Phone: (508) 823-6441

Fax: (508) 823-6443

BBO# 640653

**Proulx Law
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Attorneys at Law
170 High Street, Suite 301
Taunton, MA 02780-3536

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CERTIFICATE OF SERVICE

I, Robert M. Proulx, hereby certify that on this date I served a copy of Plaintiff's motion to Amend on the Defendants by mailing a copy, first class, postage prepaid to Regina M. Ryan, Merrick Louison & Costello, 67 Batterymarch, Boston, MA 02110 and to Elizabeth M. Rennard, Koufman & Frederick, LLC, 265 Essex Street, Ste. 301, Salem, MA 01970.

Dated this the 21st day of July, 2005.



Robert M. Proulx, Esquire

Proulx Law Associates, P.C.

Attorneys at Law

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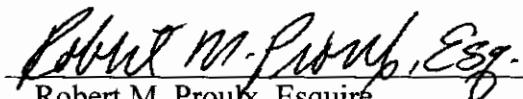
Defendants

Civil Action No.: **04CV12058WGY**

**CERTIFICATE OF COMPLAINT
WITH LOCAL RULES 15.1(b)**

I, Robert M. Proulx, do hereby certify that on July 21, 2005, I gave notice of Plaintiff's intention to file the foregoing motion to amend the complaint by mailing a copy to Regina Ryan, who is counsel for Defendants, Thomas Hodgson, Glen Sturgeon and the Bristol County Sheriffs Office; to Elizabeth M. Rennard, who is counsel for Defendant Prison Health Services, by mailing copies to each of them.

Signed under the pains and penalties of perjury this 21st day of July, 2005.



Robert M. Proulx, Esquire

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